

## **R E M A R K S**

The present amendment is in response to the Official Action dated July 19, 2006, wherein the Examiner rejected pending claims 35, 37-42 and 44-48, in each instance relying upon Ichikawa et al., US Patent No. 4,626,842, in support of an anticipation rejection. The Examiner presently relies upon an argument initially raised as part of the Examiner's Answer, responding to Applicants' Appeal Brief, an argument for which a response was presented as part of Applicants' Reply Brief. The particular argument being presently relied upon by the Examiner was in turn neither acknowledged nor addressed by the board, which in turn decided the issues raised on appeal on alternative grounds with suggested wording for avoiding the area of concern, upon which the Board of Appeals based their decision.

In the most recent rejection, the Examiner resurrects the alternative basis of rejection, but fails to address the Applicants arguments previously raised in their reply brief. More specifically, the Examiner has alleged that a type determination could be based upon whether or not the message was received with more than one error. However the state of message as a result of attempting to receive the same does not speak to the type of the message, but alternatively speaks to the integrity of transmission (i.e. a condition of conveyance), and is not a feature, relevant to the type of the message being conveyed. A message does not alter its type as a result of whether it was properly received or not. Where a message has been at least partially detected by the intended recipient in such a way that the same cannot be corrected, the applicants would contend that the message has ultimately not yet been received.

The applicants have amended independent claims 35 and 42 in an attempt to make the same more clear. As presently amended, each of the independent claims (claims 35 and 42) provides at least a determination of message type from type identifying data transmitted with the message, which is not made known or obvious through the teachings of Ichikawa et al., '842. Consequently, the applicants would respectfully request that the rejection be withdrawn, relative to each of the independent claims, and any and all dependent claims which depend therefrom.

In view of the present amendments and corresponding comments, the applicant would respectfully request that the Examiner reconsider the rejection of the claims. Should any issues remain unresolved after the consideration of the present response, the Examiner is requested to contact the applicant's representative at the number listed below to discuss the same.

Respectfully submitted,

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